



Summary of 2017 Real Property Tax Legislation

This document provides general summaries of the most noteworthy legislation enacted in 2017 related to real property tax administration. These descriptions are intended only as a source of basic information about the key elements of the new laws. For a more complete and authoritative account of what these new laws do, the best resource is, of course, the laws themselves. As used herein, “RPTL” means the Real Property Tax Law and the “Tax Department” means the Department of Taxation and Finance.

Assessment Administration

Assessment Ceilings for Utility Mass Property

□ Chapter **501** (S.5892)

Chapter 501 deals with the assessment of utility “mass” property (generally, lines, wires, pipes, etc.) located on private land (as opposed to special franchise property, which is located in or on public rights of way). As stated in Governor’s Approval Message # 62 (a copy of which appears below), the legislation will ultimately require the Tax Department to issue a report analyzing the economic, policy, and legal objectives that would be served by establishing an assessment ceiling program for all public utility mass real property within the State. The report will be due on or before May 1, 2018, and will be informed to the extent practicable by the Department’s observations and experiences with the implementation of the telecommunications assessment ceilings pilot program.

Lake Ontario Flooding Assessment Relief

□ Chapter **85** (A.8013-a), Part B • Unconsolidated

Chapter 85, Part B, enacted the Lake Ontario and Connected Waterways Assessment Relief Act. This Act, which was modelled after the Superstorm Sandy Assessment Relief Act (L.2013, c.424) and the Mohawk Valley and Niagara County Assessment Relief Act (L.2014, c.55, pt. T), provided for local option assessment relief within the counties that were covered by the state of emergency that was declared by Governor’s Executive Order No. 165, dated May 3, 2017, due to high water levels. Those counties – Niagara, Orleans, Monroe, Wayne, Cayuga, Oswego, Jefferson and Saint Lawrence – and the municipalities therein were authorized, at local option, to reduce the assessed value of properties damaged by the flooding. This tax relief applied to assessment rolls that had taxable status dates prior to May 3, 2017, where taxes levied upon those rolls were payable without interest on or after May 3, 2017. The deadline for taxing jurisdictions to opt-in was August 24, 2017, and the deadline for property owners to apply for assessment relief was November 7, 2017. Properties that lost at least 50% of their improved value would have their assessed value reduced if the municipality opted in to the relief act. Municipalities that opted in could also choose to grant relief to properties that lost at least 10% of their improved value.

Oil and Gas Fee Extender

- Chapter **59** (A.3009-c), Part I • RPTL § 593

The provisions of RPTL § 593 that authorize the imposition of charges upon oil and gas producers for the establishment of unit of production values have been extended by three years, so they are now scheduled to remain in effect until March 31, 2021.

Exemption Administration

Energy Systems

- Chapter **336** (A.260) • RPTL § 487

Chapter 336 expands the pre-existing exemption for solar, wind, and farm waste energy systems. The exemption now extends to micro-hydroelectric energy systems, fuel cell electric generating systems, micro-combined heat and power generating systems, and electric energy storage systems. A county, city, town, or village may, by local law, or a school district may, by resolution, opt-out of the exemption in relation to these newly added energy systems. Note that a previously-adopted local law or resolution that opted out of the original exemption as to solar, wind, and farm waste energy systems would not render the exemption inapplicable to these newly added energy systems, unless it is amended to specifically apply to such systems as well.

First-Time Homebuyers - Extender

- Chapter **128** (S.3530) • RPTL § 457(5)

Chapter 128 changes the sunset date of the first-time homebuyers exemption from December 31, 2016 to December 31, 2022. This exemption statute, RPTL § 457, allows municipalities to elect to provide a partial exemption to first-time homebuyers, subject to certain limitations. One of those limitations is that in order to qualify for the exemption, the home must be purchased, or the parties must enter into a contract for its purchase, before a specified date. By virtue of Chapter 128, that date is now December 31, 2022.

Housing Finance Agency Exemption

- Chapter **89** (A.8259) • RPTL § 421-d

Chapter 89 extends certain statutory authorizations of the New York State Housing Finance Agency, State of New York Mortgage Agency and SONYMA Mortgage Insurance Fund, and increases the bonding authority of HFA. One of the statutes that was extended is the exemption authorized by RPTL § 421-d for the construction of multiple dwellings financed by the HFA. That statute had been set to sunset on July 23, 2017 but this legislation keeps it (and the other HFA-related statutes) in effect until July 23, 2019.

Senior Citizens – Annuity Exchanges

- Chapter **279** (A.1603) • RPTL § 467

Chapter 279 amends RPTL § 467(3)(a) to provide that, when determining the income of applicants for the senior citizen exemption, any annuity contract exchanges that result in a non-taxable gain under Internal Revenue Code (IRC) § 1035 shall be excluded. RPTL § 467 authorizes municipalities to provide an exemption to senior citizens who meet certain eligibility requirements specified in the statute, including a limitation on income. This new legislation provides that, where there is “satisfactory proof” that the gain resulting from an exchange of one annuity contract for another is not taxable pursuant to IRC § 1035, the gain would not be counted toward income for purposes of determining eligibility for the senior citizen exemption.

Although the RPTL § 467 exemption is adopted at local option, this amendment applies to any municipality that has opted to offer the exemption.

STAR Credit Program

□ Chapter **59** (A.3009-c), Parts G, H, and TT • Tax Law § 606(eee)

Chapter 59 modifies the STAR Credit program in several respects:

- Part G revises the STAR credit rules regarding secrecy to allow the Tax Department to disclose, to assessors and county directors of real property tax services, the names and addresses of individuals who have applied for or are receiving the credit. Such information must be treated as confidential and is not subject to further disclosure.
- Part H amends the STAR credit provisions to require local assessors to provide the Tax Department with a statement setting forth the taxable assessed value attributable to each tenant-stockholder of a cooperative apartment corporation. It also provides for this information to be taken into account when the credit applicable to a co-op is computed.
- Part TT authorizes the Tax Department to issue STAR credit advance payment checks based upon an estimate of STAR tax savings, where attempting to ascertain the actual STAR tax savings would jeopardize timely issuance of the payment. If an advance payment is above or below the amount to which the taxpayer is entitled, the Tax Department shall reconcile the overpayment or underpayment.

Veterans - Alternative; Annual Reminder

□ Chapter **286** (A.4859) • RPTL § 458-a

Chapter 286 requires the Division of Veterans Affairs, in consultation with the Tax Department, to “reinforce and/or remind” assessors at least annually that the for purposes of the alternative veterans’ exemption, the Persian Gulf conflict includes, but is not limited to, hostilities in Afghanistan and Iraq, also known as Operation Iraqi Freedom, Operation Enduring Freedom, Operation New Dawn, and Operation Inherent Resolve. This amendment recognizes that the exemption’s application to veterans of the Persian Gulf Conflict is not limited to any specific named military campaign, nor is it limited to a military campaign with any specific end date (see RPTL § 458-a(1)(a)).

Veterans - Alternative; Operation Graphic Hand

□ Chapter **141** (S.5411) • RPTL § 458-a

Chapter 141 authorizes a town to adopt a local law to allow the alternative veterans exemption to be granted to members of the United States armed forces reserves who were called to active duty to assist the Postmaster General in restoring and maintaining postal service during the 1970 postal strike. That activation was later designated “Operation Graphic Hand.” This legislation expands an amendment to RPTL § 458-a enacted in 2016 (c.476) that enabled counties, cities, villages, and school districts, but not towns, to extend the alternative veterans exemption to reservists called to active duty to assist in Operation Graphic Hand.

Veterans - Cold War; Duration of Exemption

□ Chapter **290** (A.6510-a) • RPTL § 458-b

Chapter 290 provides that a municipality that offers the Cold War veterans exemption may permit qualifying owners of qualifying real property to receive the exemption for as long as they remain qualifying owners. Previously, this exemption was limited to 10 years, with no local option to extend it. This amendment allows counties, cities, towns, and villages, by local law, and school districts, by resolution, to remove the 10 year exemption limit should they so choose. If a municipality that has opted to offer the Cold War veterans exemption does not take such action, the 10 year limit will remain in effect.

Veterans - Eligible Funds; School District Option

- Chapter **376** (S.1724) • RPTL § 458

Chapter 376 gives school districts the ability to offer eligible funds veterans exemptions. Previously, school districts did not have this option. This change brings the eligible funds veterans exemption in line with the Cold War veterans exemption and the alternative veterans exemption, which were extended to school districts in 2016 (c.253) and 2013 (c.518).

Retroactive Exemptions for Specific Properties

The assessors of certain assessing units have been authorized to accept exemption applications after taxable status date for specific parcels owned by named nonprofit or governmental entities. The entities either acquired the parcel after taxable status date, or acquired title but failed to apply for the exemption by taxable status date. The details are in the Legislative Status Chart at <http://www.tax.ny.gov/research/property/legal/legis/17bills.htm>.

Tax Collection and Enforcement

Partial Payments of Taxes

- Chapter **59** (A.3009-c), Part F • RPTL § 928-a

Chapter 59, Part F, expands the ability of municipal corporations to offer programs for the partial payment of taxes. Prior to this legislation, only counties were generally authorized to adopt such programs. This legislation allows the governing body of any municipal corporation that employs a collecting officer to pass a resolution authorizing that officer to accept partial payments under the conditions specified in the resolution. Municipalities adopting such a resolution may provide for a service charge of up to ten dollars to be added to each partial payment. School districts have been empowered to establish partial payment programs as well, subject to certain conditions where school taxes are payable to a collecting officer of a city or town.

Liens on Fire Insurance Proceeds

- Chapter **342** (A.2784-b) • General Municipal Law § 22

Chapter 342 expands the ability of local governments to place liens for unpaid taxes on the proceeds of fire insurance policies. Prior to this legislation, the law allowed such liens to be placed on such proceeds for all properties except one and two-family residential structures. This legislation narrows that exception so that it only applies to one and two-family residential structures that are owner-occupied. Thus, the *status quo* is continued for owner-occupied one and two-family homes, but local governments may now place liens on such proceeds for one and two-family homes that are not owner-occupied (e.g., absentee-owned rental properties).

Miscellaneous

Land Banks

- Chapter **349** (A.6474-a) • Not-for-Profit Corporation Law Article 16

Chapter 349 generally exempts land banks from sewer rents and user charges. The Land Bank Act, as codified at Article 16 of the Not-for-Profit Corporation Law, provides for the creation of land banks and gives them a variety of tools to promote the redevelopment of abandoned properties in distressed municipalities. The real property of land banks had previously been made exempt from special ad valorem levies and special assessments as defined by RPTL § 102 (L.2016, c.441). This legislation extends that exemption to apply to

“sewer rents” and “user charges” as well, except where the land bank receives rent, fees or other charges for the use of such property.

County-wide Shared Services Property Tax Savings Plans

□ Chapter **59** (A.3009-c), Part BBB • Unconsolidated

Chapter 59, Part BBB, provides that the chief executive of each county outside of New York City shall prepare a plan for shared, coordinated, and efficient property tax services among the county, cities, towns, villages, in the county. The plan may apply to the school districts, boards of cooperative educational services, and special improvement districts within the county as well. The legislation establishes a procedure for creating a shared services panel in which a representative from each municipal corporation shall serve. The panel is charged with developing a property tax savings plan through actions such as eliminating duplicative services, sharing services, equipment, and storage facilities, and coordinating services, within a timeframe prescribed by the legislation.

Electric Generation Facility Cessation Mitigation Fund

□ Chapter **58** (S.2008-c), Part QQ • Unconsolidated

Chapter 58, Part QQ, expands the funding available to local government entities in which an electric generating facility closed on or after June 25, 2015, resulting in reduced real property tax or PILOT collections of at least 20 percent of the amount owed by such facility. The total amount of funding available, contingent on appropriations, has been increased from \$30,000,000 to \$45,000,000, and the period of time over which assistance may be provided to the local government has been increased from five to seven years. In addition, there is now a schedule of the maximum award amount that may be granted in each award year.

Indian Point Closure Task Force

□ Chapter **58** (S.2008-c), Part RR • Unconsolidated

Chapter 58, Part RR, creates a task force to address the closure of the Indian Point nuclear power plant in Westchester County, and to provide guidance and support to affected municipalities. The task force will partner with local governments to address employment and property tax impacts, develop new economic opportunities, evaluate site reuse options, identify work force retraining programs and opportunities, and monitor the closure and related commissioning and site restoration issues.

Property Tax Credit for Trust-Owned Farms

□ Chapter **485** (S.2899) • Tax Law § 606(n)(3)

Chapter 485 extends eligibility for the Farmer’s School Tax Credit to land “owned by a trust to which the taxpayer is a beneficiary.” Under prior law, a relative of a farmer could claim the credit if the farmer still owned the land and had agreed in writing to eventually convey title to that relative, but if the land was owned by a trust, the relative was not eligible. Note that a technical correction will be made to this legislation per Approval Message # 52, set forth below.

Legislation of Local Interest

Enactments that are primarily of local interest include the following:

- The City of Jamestown has been authorized to provide an exemption for certain rehabilitated one and two family residential properties (c.134).
- A local law of the Village of Spring Valley relating to the granting of senior citizens and veterans exemptions has been ratified (c.55, Pt. EE).
- The authorization for the City of Middletown to use delinquent tax liens as collateral for a loan has been extended (c.391).

- The Hendrick Hudson Central School District has been authorized to establish an energy system tax stabilization reserve fund (c.59, Pt. YYY, § 36).
- The Nassau County tax abatement for seniors receiving Enhanced STAR has been extended through 2028 (c.27).
- The following enactments primarily impact New York City:
 - The multiple dwelling exemption authorized by RPTL § 421-a has been extended, restructured, and renamed the “Affordable New York Housing Program” (c.59, Pt. TTT; c.89).
 - The STAR-related city income tax rate reduction has been restructured as a State personal income tax credit (c.59, Pt. C).
 - Two tax abatement programs for commercial properties have been extended (c.61, Pt. F).
 - The maximum income to qualify for a 50% exemption of the value of real property under the Senior Citizen exemption (RPTL § 467) and the exemption for persons with disabilities (RPTL § 459-c) has been increased to \$50,000 (c.131; note that these increases only apply within New York City).
 - The Industrial and Commercial Abatement Program for certain renovations and improvements to industrial, commercial, and mixed-use buildings in New York City under RPTL Article 4, Title 2-F, has been revised to allow a longer period for filing final abatement applications (c.397).
- The formula for determining class tax rates under RPTL Article 18 for New York City (c.72) and Nassau County (c.152) has been modified for one year.
- The formula for determining class tax rates under RPTL Article 19 for the Town of Clarkstown (c.156), the Town of Islip (c.152), and the approved assessing units in Nassau County (c.152) has been modified for one year.

Governor's Approval Messages

APPROVAL MEMORANDUM - No. 52 Chapter 485

MEMORANDUM filed with Senate Bill Number 2899, entitled:

"AN ACT to amend the tax law, in relation to property tax credits for farmers"

APPROVED

The Agricultural Property Tax Credit is a tax credit allowed against the personal income tax or the corporation franchise tax to reimburse some or all of the school district property taxes paid by farmers. Under current law, it is available to an individual or corporation who owns a farm or a close relative of the owner of a farm, as long as the relative has a written agreement to purchase a farm in the future. A farm that is owned by a trust, however, is ineligible for the credit.

This bill would expand eligibility for the credit to a farm owned by a trust. As originally drafted, however, the bill would have broadened the credit to allow a trust beneficiary who is not a relative, and does not have inheritance rights to the farm, to claim the credit. The Executive has secured an agreement with the Legislature to pass legislation in the upcoming session to address this concern. On this basis, I am signing this bill.

This bill is approved.

(signed) ANDREW M. CUOMO

APPROVAL MEMORANDUM - No. 62 Chapter 501

MEMORANDUM filed with Senate Bill Number 5892, entitled:

"AN ACT to amend the real property tax law, in relation to establishing an energy-related public utility mass real property central assessment pilot program; and providing for the repeal of such provisions upon expiration thereof"

APPROVED

This bill would require the Department of Taxation and Finance to establish a program to set assessment ceilings for certain energy-related public utility mass real property, e.g. the lines and wires used in the transmission and distribution of electricity and gas, located on private land in Westchester County.

In New York, the State is responsible for assessing utility mass real property that is located in the public right of way, whereas assessment of utility mass real property situated on private land is historically performed by local assessors. The Department is currently establishing assessment ceilings for telecommunication public utility mass real property throughout the State under a four-year pilot program that took effect on January 1, 2015 (L.

2013, c. 475). Although local assessors are responsible for the initial assessment, the Department's assessment ceilings function as a cap on the assessments for local property tax purposes. This ensures consistency across taxing jurisdictions.

This bill would largely mirror the Department's telecommunications assessment ceilings pilot program with one major difference. While the telecommunications assessment pilot is being conducted statewide, this bill would only conduct the program in a single county. As a result, electric and gas mass property would be valued one way in Westchester, but in a different way in other counties. This would complicate the State's system of real property tax administration, and defeat my Administration's goal of statewide uniformity and efficiency.

The Executive and the Legislature have secured an agreement to pass legislation in the upcoming session that will require the Department, in consultation with the Department of Public Service, to issue a written report analyzing the economic, policy, and legal objectives that would be served by establishing an assessment ceiling program for all public utility mass real property within the State. The report shall be due on or before May 1, 2018, and shall be informed to the extent practicable by the Department's observations and experiences obtained during the implementation of the telecommunications assessment ceilings pilot program. On that basis, I will sign the bill.

This bill is approved.

(signed) ANDREW M. CUOMO

Governor's Disapproval Messages

VETO MESSAGE - No. 157

TO THE ASSEMBLY: I am returning herewith, without my approval, the following bill:

Assembly Bill Number 2438-A, entitled: "AN ACT to amend the real property tax law, in relation to tax billing addresses"

NOT APPROVED

This bill would amend the Real Property Tax law, such that local tax assessors would no longer have to add a tax billing address, or "bank code," to their assessment roll data files when a mortgagee is an investing institution or an agent of an investing institution.

Most mortgagees require homeowners to include escrow payments with their monthly mortgage payments. The mortgagee or its agent then assumes responsibility for paying the tax bill on the funds accumulated in the account. Removing the bank code may result in local tax assessors sending the tax bill to the property owners instead of the mortgagee or its agent. As a result, tax payments may be delayed, and interest and penalties may accrue to the detriment of the homeowner.

As evidenced by the State's "County-Wide Shared Services Initiative," I fully support developing new initiatives to modernize existing processes and eliminate duplicative services. In this instance, however, eliminating the banking code requirement creates a needless risk for homeowners. Existing law establishes a system to ensure effective tax collection, and any amendment that creates a risk of delay or confusion should be avoided. I am therefore constrained to veto this bill.

This bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - No. 167

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 4900, entitled: "AN ACT to amend the agriculture and markets law and the public lands law, in relation to access to viable agricultural land for new and beginning farmers"

NOT APPROVED

This bill would require the Department of Agriculture and Markets to establish a program to promote the transfer of viable agricultural land from existing owners to new farmers and, in cooperation with the Office of General Services, to collect, compile, and publish information on State-owned public land, as well as private land, that may be viable for farming.

My support for the intent of this bill has not wavered since it was first introduced in 2014. For example, in 2014, I established the New York State New Farms Grant Fund, which provides grants to support beginning farmers who have chosen farming as a career and substantially participate in the production of an agricultural product on their farms. The Fund has provided approximately \$2.5 million to farmers since its inception, including \$1 million that was allocated in this year's budget. In addition, the Department established a Beginning Farmer Working Group, which is examining a broad range of issues important to new farmers, including access to viable farm land.

Yet like its three predecessors, this year's bill suffers from the same fiscal concerns. (Veto No. 537 of 2014, Veto No. 201 of 2015, and Veto No. 248 of 2016). Specifically, it would create a new program without an established funding source, and thus impose a substantial burden on taxpayers. I remain committed to discussing this proposal in the context of the annual State budget negotiations, which will provide an opportunity for the Executive and the Legislature to fully vet the bill's fiscal implications and determine whether consensus on an appropriation can be reached. Until then, I must again veto this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGES - Nos. 208 and 209

TO THE ASSEMBLY: I am returning herewith, without my approval, the following bills:

Assembly Bill Number 1841-A, entitled: "AN ACT to amend the general municipal law and the education law, in relation to payments in lieu of taxes"

Assembly Bill Number 5965, entitled: "AN ACT to amend the education law, in relation to exempting BOCES capital expenditures from limitations upon local school district tax levies; and providing for the repeal of such provisions upon expiration thereof"

NOT APPROVED

In 2011, I worked with the Legislature to establish New York State's Property Tax Cap, which establishes a limit on the annual growth of property taxes levied by local governments and school districts to two percent or the rate of inflation, whichever is less. The Tax Cap has succeeded in curbing the growth of local property taxes, resulting in significant savings for taxpayers.

When the Tax Cap was passed, careful consideration was given to protect taxpayers from further significant increases. These bills would run counter to those efforts. First, Assembly Bill No. 1841-A would alter the value of property subject to payments in lieu of taxes (PILOT) agreements for purposes of increasing the tax levy growth factor. By allowing for the inclusion of currently exempt property within the levy growth factor, this bill would increase the base taxable property value in school districts and municipalities, thus increasing the amount they are

permitted to raise taxes annually. Not only would this allow school districts and local governments to circumvent the careful balance of taxpayer and governmental interests that now exists within the Tax Cap, but the burden of those additional taxes would fall entirely on the taxpayers not subject to a PILOT agreement, as PILOTs are fixed.

Second, Assembly Bill No. 5965 would unnecessarily exclude BOCES capital projects from a school district's tax levy. School districts must account for these capital expenses within their annual Tax Cap. By placing this burden outside of the cap, school districts will be allowed to collect additional revenue from property taxpayers above the allowable Tax Cap, which runs contrary to the goals of the Tax Cap. Further, unlike individual school district capital expenditures, BOCES capital expenditures are not subject to approval by district voters. For these reasons, I am constrained to veto these bills.

These bills are disapproved.

(signed) ANDREW M. CUOMO

VETO MESSAGE - No. 223

TO THE SENATE: I am returning herewith, without my approval, the following bill:

Senate Bill Number 4723-A, entitled: "AN ACT to amend the town law, in relation to the powers and duties of the receiver of taxes and assessments"

NOT APPROVED

Under current law, a town collects the property taxes on behalf of a school district unless there is an agreement that the school district will perform this task. This bill would remove the requirement for agreement between both entities, and instead allow the school district to unilaterally decide to collect its own property taxes, as long as the district notifies the town by September 1 of that year.

Last year, I vetoed a substantially similar bill because it would have required the school district to notify the town of its decision by February 1, which would have significantly impacted the town's ability to develop and implement its annual budget. (Veto No. 235 of 2016).

The current bill would require a school district to provide notice to the town by September 1 of each year before the district collects its own taxes. This change essentially would eliminate advance notice for many towns since tax collections for most school districts begin in September. The bill also continues to be at odds with my efforts to streamline local government operations and eliminate duplicative services. In this instance, allowing a school district to collect its own property taxes while still requiring the town to collect all other taxes will lead to uncoordinated and duplicative collections. Accordingly, I cannot approve this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

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For the 2017 Legislative Status Chart, see <http://www.tax.ny.gov/research/property/legal/legis/17bills.htm>.